



## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-616, OMB Control No. 3235-0671]

### Extension: Rule 613 of Regulation NMS

Upon Written Request, Copies Available From:

Securities and Exchange Commission

Office of FOIA Services

100 F Street, NE

Washington, DC 20549-2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (“Commission”) is soliciting comments on the existing collection of information provided for in connection with a National Market System (NMS) Plan filed with the Commission under Rule 613 (17 CFR 242.613), under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.). The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 613 of Regulation NMS (17 CFR part 242) required national securities exchanges and national securities associations (“Participants”) to jointly submit to the Commission a national market system (“NMS”) plan to govern the creation, implementation, and maintenance of a consolidated audit trail (“CAT”) and Central Repository for the collection of information for NMS securities. On February 27, 2015, the Participants submitted the CAT NMS Plan to the Commission.<sup>1</sup> On April 27, 2016, the Commission published a notice soliciting comments from

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<sup>1</sup> See Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. The Participants filed the CAT NMS Plan on September 30, 2014. See Letter from the Participants, to Brent J. Fields, Secretary, Commission, dated September 30, 2014. The CAT NMS Plan filed on February 27, 2015, was an amendment to and replacement of the Initial CAT NMS Plan (the “Amended and Restated CAT NMS Plan”). On December 24, 2015, the Participants submitted an Amendment to the

the public (“CAT NMS Plan Notice”).<sup>2</sup> On November 15, 2016, the Commission approved the CAT NMS Plan (“CAT NMS Plan Order”), including the information collections proposed in the CAT NMS Plan Notice, and certain additional information collections.<sup>3</sup>

Since July 2020, the date of the last PRA renewal, the Commission believes one additional information collection was completed: a one-time independent audit of the fees, costs, and expenses incurred by the Participants on behalf of CAT NMS, LLC prior to the Effective Date<sup>4</sup> of the Plan;<sup>5</sup> In addition, certain information collection requirements have completed at least the implementation stage, although certain ongoing costs remain, including: (1) development of a Central Repository tasked with the receipt, consolidation, and retention of reported order and execution information submitted by Participants and their members;<sup>6</sup> (2) the requirement that each Participant, and any member of such Participant, record and electronically report to the Central Repository details for each order and Reportable Event documenting the life of an order through the process of original receipt or origination, routing, modification, cancellation, and execution (in whole or in part) for each NMS security;<sup>7</sup> (3) the requirement that

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Amended and Restated CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015 (the “Amendment”). On February 9, 2016, the Participants filed with the Commission an identical, but unmarked, version of the Amended and Restated CAT NMS Plan, dated February 27, 2015, as modified by the Amendment, as well as a copy of the request for proposal issued by the Participants to solicit Bids from parties interested in serving as the Plan Processor for the consolidated audit trail. Unless the context otherwise requires, the “CAT NMS Plan” shall refer to the Amended and Restated CAT NMS Plan, as modified by the Amendment.

<sup>2</sup> See Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30613 (May 17, 2016). The burdens associated with the CAT NMS Plan Notice were submitted under OMB number 3235-0671 which relates to the NMS Plan required to be filed under Rule 613.

<sup>3</sup> See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016), available at <https://www.sec.gov/rules/sro/nms/2016/34-79318.pdf> (“CAT NMS Plan Order”).

<sup>4</sup> The “Effective Date” is the date the Commission approved the CAT NMS Plan, which is November 15, 2016. See id.

<sup>5</sup> See CAT NMS Plan Order, supra note 3, at 84940.

<sup>6</sup> See 17 CFR 242.613.

<sup>7</sup> See 17 CFR 242.613(c)(1), (c)(5), (c)(6), (c)(7).

the CAT NMS Plan require the Central Repository to collect and retain on a current and continuous basis NBBO information for each NMS security, transaction reports reported pursuant to an effective transaction reporting plan, and Last Sale Reports reported pursuant to the Options Price Reporting Authority Plan;<sup>8</sup> (4) the requirement that the CAT NMS Plan must require that every national securities exchange and national securities association develop and implement a surveillance system, or enhance existing surveillance systems, reasonably designed to make use of the consolidated information contained in the consolidated audit trail;<sup>9</sup> (5) an annual requirement that the CAT LLC financials be (i) in compliance with GAAP, (ii) be audited by an independent public accounting firm, and (iii) be made publicly available;<sup>10</sup> and (6) a requirement that each Participant conduct background checks for its employees and contractors that will use the CAT System.<sup>11</sup>

This Notice addresses both the ongoing information collection requirements noted above and the remaining information collection requirements noticed in the CAT NMS Plan Notice and certain additional information collections of the CAT NMS Plan Order, which are: (1) a one-time report from the Participants discussing the feasibility and advisability of allowing Industry Members to bulk download the Raw Data that it has submitted to the Central Repository;<sup>12</sup> (2) a one-time assessment of the nature and extent of errors in the Customer information submitted to the Central Repository and whether the correction of certain data fields over others should be prioritized from the Participants;<sup>13</sup> (3) a one-time report on the impact of tiered fees on market liquidity, including an analysis of the impact of the tiered-fee structure on Industry Members

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<sup>8</sup> See 17 CFR 242.613(e)(7).

<sup>9</sup> See 17 CFR 242.613(f).

<sup>10</sup> Id.

<sup>11</sup> Id. The Commission believes that these background checks are necessary to ensure that only authorized and qualified persons are using the CAT System.

<sup>12</sup> Id. at 84941.

<sup>13</sup> Id.

provision of liquidity from the Participants;<sup>14</sup> and (4) an assessment of the projected impact of any Material Systems Change on the Maximum Error Rate, prior to the implementation of such Material Systems Change from the Participants;<sup>15</sup>

The Commission believes that the CAT NMS Plan, once fully implemented, will improve the quality of the data available to regulators in four areas that affect the ultimate effectiveness of core regulatory efforts—completeness, accuracy, accessibility and timeliness.<sup>16</sup> The improvements in these data qualities would substantially improve regulators’ ability to perform analysis and reconstruction of market events, and market analysis and research to inform policy decisions, as well as perform regulatory activities, in particular market surveillance, examinations, investigations, and other enforcement functions.

The Commission estimates that 1375 respondents<sup>17</sup> will require an aggregate total of approximately 4,931,332 hours per year to comply with the collection of information. The Commission further estimates that the aggregate cost to comply with the collection of information will be approximately \$328,627,524 per year.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or

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<sup>14</sup> Id. at 84941–84942.

<sup>15</sup> Id. at 84942. The Commission believes that four assessments would be filed annually.

<sup>16</sup> See CAT NMS Plan Order, supra note 3, at 45727 (discussing four “qualities” of trade and order data that impact the effectiveness of core Participant and Commission regulatory efforts: accuracy, completeness, accessibility, and timeliness).

<sup>17</sup> The Commission notes that 25 Participants (the 24 national securities exchanges and one national securities association) and 1,350 broker-dealers subject to information collections requirements pursuant to Rule 613 and the CAT NMS Plan.

other forms of information technology. Consideration will be given to comments and suggestions submitted by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER].

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: May 16, 2023.

**Sherry R. Haywood,**

*Assistant Secretary.*

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